

AMENDMENT UNDER 37 C.F.R. § 1.116
U. S. Application No. 09/225,486

REMARKS

Claims 1-20 are all the claims pending in the application.

Claims 2-5, 10, 13, 15, and 17-20 are pending in the application.

In response to the Amendment filed April 23, 2003, the Examiner has essentially repeated the previous claim rejections of the pending claims. Thus, the claims stand as follows.

Claims 10 and 19 are rejected under 35 U.S.C. § 102(b) as being anticipated by previously-cited Saito (US 5,010,393). Claims 15 and 17 are rejected under 35 U.S.C. § 102(b) as being anticipated by previously-cited Abe (US 5,568,194). Claims 2-5 and 13 are rejected under 35 U.S.C. § 102(e) as being anticipated by previously-cited Terashita (US 5,767,983).

Claim 18 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Abe in view of previously-cited Ishikawa et al. (US 5,682,573). Claim 20 is rejected under 35 U.S.C. § 102(e) as being anticipated by previously-cited Tretter (US 6,464,173).

Also, claim 13 is rejected under 35 U.S.C. § 112, second paragraph, due to an insufficient antecedent basis, caused by claim 13 being dependent upon canceled claims 1 and 11. Hence, the dependency of claim 13 is changed herein to make it depend from claim 10.

Additionally, the drawings are objected to under 37 C.F.R. § 1.83(b) as allegedly being incomplete. By the present Amendment, the Applicant adds the enclosed new drawing (FIG. 2) in response to the objection. Also, the specification is amended to include a description for FIG. 2. FIG. 2 shows the claimed method steps of the claims, without adding any new matter.

Claims 10 and 19 recite extracting a characteristic value representing a characteristic of an image sensing device from digital image signals of a plurality of images of subjects photographed by the image sensing device. This aspect of the present invention is supported by

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page 12, line 16 -page 13, line 13 of the specification, for example. By contrast, in Saito, the chroma information is used to figure out how much an image is diverging from an image of a visually preferable chroma level to realize good color reproduction. See, for example, col. 5, line 51 - col. 6, line 5 of Saito. Thus, Saito does not disclose extracting a characteristic value representing a characteristic of an image sensing device from digital image signals of a plurality of images of subjects photographed by the image sensing device. Therefore, claims 10 and 19 are not anticipated by Saito.

With further regard to the rejection of claims 10 and 19, in the "Response to Arguments," the Examiner asserts that the conversion of incident light into electrical signals is a conversion from an analog light signal to discrete samples, and thus digital image signals. Applicant maintains that a digital signal process is not inherent in Saito. The Examiner assumes, without justification that the image pick up is a digital one. However, the reference is more likely directed to analog pick up by a analog camera in view of the NTSC (analog standard) output. The Examiner offers no basis for concluding the presence of discrete sampling or digital signals, and thus has failed to state a *prima facie* case.

For the rejection of claims 15 and 17, Applicant submits that Abe does not teach or suggest that the characteristic value is extracted from a thumbnail image signal of the digital image signals. In the "Response to Arguments" the Examiner refers to col. 3, lines 59-65 and col. 4, lines 18-28 of Abe, which disclose a luminance comparing circuit 24 that obtains values of a luminance comparing function $L(x,y)$. Abe also discloses dividing up of an image into 8x8 blocks. See col. 3, lines 25-43. The Examiner interprets a thumbnail image as an image that has reduced resolution due to the averaging of adjacent pixels in the 8x8 blocks of data. However,

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the Examiner has provided no support for his interpretation of a thumbnail image. Nothing in the reference describes or suggests such a meaning for the term “thumbnail image,” and Applicant submits that the Examiner’s interpretation is contrary to the ordinary definition of this term. Rather, each of the 8x8 blocks of data is a portion of a complete image.

The Examiner’s assessment of the purported equivalents between forming a thumbnail image and the raster blocking of Abe cannot support the rejection. The rejection must be based on equivalents recognized by one skilled in the art and not the unsupported contention of the Examiner. Moreover, the thumbnail derives from image signals, in turn derived from a plurality of images. The raster blocking into 8x8 blocks is conceded to be derived from a single image. Therefore, even assuming *arguendo* that the Examiner’s position is correct, the citation to Abe does not support the rejection.

Hence, claim 15 and its dependent claim 17 are allowable over the prior art.

With regard to claim 18, Applicant submits that claim 18 is allowable over the prior art, at least because of its dependence from claim 15, and because Ishikawa et al. do not make up for the deficiencies of Abe noted above.

Claims 2-5 and 13 are rejected as allegedly being anticipated by Terashita. Claim 2 is amended herein to include the limitations of claim 5. Accordingly, claims 4 and 5 are canceled. In conjunction with this amendment, Applicant submits that Terashita fails to disclose wherein the image processing is carried out by weighting the averages by using a predetermined weight coefficient. The Examiner refers to col. 3, lines 5-21 and col. 7, lines 7-16, as allegedly disclosing the features of claim 5, but Applicant disagrees. Col. 7, lines 7-16 describes the use of weighting coefficients, but does not describe weighting the averages by using a predetermined

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weight coefficient. Additionally, the description of tricolor average density and a density-exposure relationship are mutually different embodiments. The Examiner may not combine the teachings of different embodiments unless there is a basis to do so. Thus, claim 2 and its dependent claim 3 are not anticipated by Terashita.

Claim 13 is amended to make it depend from claim 10. Applicant submits that claim 13 is allowable, at least because of its dependence from claim 10.

For claim 20, Applicant submits that Tretter does not teach or suggest wherein the characteristic value relates to at least one of brightness, tone and sharpness of the image sensing device and is determined using digital image data derived from more than two different images photographed by the image sensing device. The Examiner cites col. 5, lines 49-60 and col. 6, lines 8-15 of Tretter in reference to claim 20. Nevertheless, Tretter does not disclose determining the characteristic value using digital image data derived from more than two different images photographed by the image sensing device. For example, col. 6, lines 8-14 of Tretter only discloses the following:

The contrast enhancer 205 is connected to a data structure for storing a histogram 211 of some property of the image 109. In one embodiment, the histogram property is luminance, i.e., the histogram 211 contains an entry for each possible luminance value for the particular output device 115 and each such luminance value entry is the number of pixels that has that particular luminance value.

Neither this excerpt, nor the remainder of the reference discloses determining the characteristic value using digital image data derived from more than two different images photographed by the image sensing device. By contrast, as disclosed in col. 6, lines 15-25 of Tretter, for example, the contrast enhancer 205 uses an input of one image and transforms the

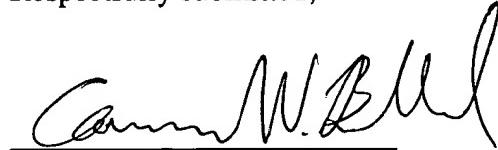
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input into an image having a property for contrast enhancement. Therefore, claim 20 is not anticipated by Tretter.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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